

**EXPROPRIATING INTERVENTION OF THE STATE IN THE RIGHTS OF A FOREIGN
INVESTOR
(TAKING OF THE FOREIGN INVESTOR'S PROPERTY)**

The aim of the thesis is to provide a commentary on the topic of taking of foreign investor's property in such a manner, that a person, with only a fair knowledge of the term "expropriation" and no knowledge of the international investment law, would by reading the paper alone acquire a broad insight into this branch of international law and into its specific concept of taking. For this reason, there is a great attention paid to the evolution of the term in the different sources of international investment law rules, as well as to the theoretical aspects of property in the international law.

The focus of the thesis is on the indirect expropriation, which is understood therein as one of the categories of the wider term: "taking". In order to explain the intricacies of the notion of indirect expropriation the author is using the terminology of criminal law. The inspiration for that was one of the articles cited in the text. The study shows that judicial decisions, although being only a subsidiary source of legal rules, are in fact principal means of determination of rules of law in this area. International agreements are slow to react to the needs of the changing relationships of international investment law. Nonetheless it is also suggested in the thesis that we may see more unification and clarification of some key concepts in the future. There are already some modern, elaborate treaties, which are often referred to throughout the text. The indispensable role of the teachings of publicist in consolidation of possible rules from a wide range of sources is pointed out as well. The outcome of the analysis is a map of some kind that serves the purpose of navigation in this area. It tries to process indirect expropriation, the standard of fair and equitable treatment and the notion of regulatory (police) powers into one solid system. Furthermore, author proposes a test, which he finds appropriate for the drawing of the borderline between legitimate state regulation and compensable regulatory taking. He also puts forward an element that could decide the question of when shall particular circumstances of a case be seen as a breach of the fair and equitable treatment standard and when as a wrongful indirect expropriation. The impact of the proposed system of relations on the matters of compensation is discussed in the end of the relevant chapter. The last chapter applies the theoretical analysis to the facts of the current issue of amendments to the system of state support for the solar power plants, the problem that gave rise to arbitral proceedings against the Czech Republic.